WASHINGTON, D.C. STATEHOOD

CONSTITUTIONAL CONVENTION

Wednesday, May 26, 1982
9th Floor Conference Room
10th and E Streets,
Washington, D.C.

After recessing at 2:55 o'clock a.m. above-described date, it was decided to reconvene at 12:00 o'clock noon. The meeting was called to order at the time a quorum was reached, 1:34 o'clock p.m.

The meeting was chaired by Vice President Harris, Vice President Baldwin and President Cassell, as indicated in the body of the transcript.

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P R O C E E D I N G S 1:34 p.m.

CHAIRPERSON HARRIS: Will the Convention please come to order?

At this time, we will have our traditional brief moment of silent prayer and meditation.

[Brief period of silence.]

CHAIRPERSON HARRIS: Amen. Let me just set the Agenda for today while we are getting ready to call the roll.

We have to complete our first reading of Rights. We will do Section 19, Section 20, 22, 23 and return to Section 7 and entertain any other amendments after that. I am urging you to be very brief today in your discussions. If someone makes a point which is similar to your motion and you concur, if you just say "Amen" rather than getting up to speak , it would help us move on and we know that you concur.

What we would like to do is finish this section in an hour and move on to our second readings and for your information, we will begind second readings with the Executive Branch, Legislative Branch -- which you have already -- Finance and Tax will be distributed to us in a half an hour. Then we go to Health, Housing, Social Services, Economic Development, Local Government and Suffrage.

So as you see, we have a lot to do to finish our

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second reading so that Style and Drafting can work all day tomorrow so I beg you to please be brief.

We will honor only two minutes of discussion and move right along.

At this time we will have our Assistant Secretary call the roll.

[Whereupon, Assistant Secretary Bruning called the roll with results as follows. There was a quorum.]

Delegate Baldwin, Present; Delegate Barnes; Delegate Blount; Delegate Bruning, Here; Delegate Cassell, Present; Delegate Coates; Delegate Clarke; Delegate Cooper; Delegate Corn; Delegate Croft; Delegate Eichhorn; Delegate Feely, Present; Delegate Freeman, Here; Delegate Garner; Delegate Graham, Here; Delegate Harris, Here; Delegate Holmes; Delegate Jackson, Present; Delegate Johnson, Present; Delegate Jones, Delegate Jordan; Delegate Kameny, Here; Delegate Lockridge, Present; Delegate Long, Here; Delegate Love; Delegate Maguire, Here; Delegate Marcus, Good afternoon; Delegate Charles Mason, Here; Delegate Hilda Mason, Here; Delegate Brian Moore, Present; Delegate Jerry Moore, Present; Delegate Talmadge Moore, Here; Delegate Nahikian; Delegate Nixon; Delegate Oulahan, Here; Delegate Paramore; Delegate Robinson, Here; Delegate Rothschild, Here; Delegate Schrag; Delegate Shelton, Present; Delegate

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Simmons; Delegate Street; Delegate Terrell, Here; Delegate Thomas, Here; Delegate Warren, Present.

Delegate Barnes, Delegate Clarke, Delegate Coates, Delegate Cooper, Delegate Corn, Delegate Croft, Delegate Garner, Delegate Holmes, Delegate Jordan, Delegate Blount, Here, Delegate Nahikian, Delegate Nixon, Delegate Paramore, Delegate Schrag, Delegate Simmons, Delegate Street.

CHAIRPERSON HARRIS: We have 31 Delegates present and we shall begin. Delegate Moore -- Jerry Moore, will you please begin with Section 19?

DELEGATE JERRY MOORE: Madam Chairman, I move Section 19, Civil Suits.

DELEGATE KAMENY: Second.

CHAIRPERSON HARRIS: Section 19 has been properly moved and seconded. Delegate Oulahan.

DELEGATE OULAHAN: Madam Chair, I move to delete the third sentence of this section which reads, ".....shall not be required of any ..."

A DELEGATE: Second.

[Motion made and seconded.]

DELEGATE OULAHAN: Madam Chairman, court costs are not donations at the door. They are the means whereby the court is enabled to survive. They also are means of

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keeping out of the court suits which should never have been filed. For example, if you file a law suit which has no basis in law against the weather, the court can award costs against you in order to deter you from abusing the judicial system.

If this kind of a provision goes into effect again, Madam Chairman, it is just another example of the destruction of a viable court system that will ultimately harm all the people of the District of Columbia.

CHAIRPERSON HARRIS: Okay. May I just repeat Delegate Oulahan's amendment and that is, to strike the last sentence on line 23. May I also remind you that our General Counsel, on page 6 of his report, has a discussion to that effect.

Delegate Kameny.

DELEGATE KAMENY: Yes, I speak to the committee in opposition to Delegate Oulahan's amendment. A court is a government office like any other old government office and it should be supported by the government. You do not have to pay the expenses of the operation of any government office that you walk into. Most of you would consider that outrageous if you did and there is no more reason why you should have to do that with a court, which also exists and is set up to serve your interests within the constraints and meaning of the judicial system.

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Now, what court costs do -- what court costs do is to deter those litigants who may not be wealthy, those litigants who do not have means, as worthy as their suits may be, those litigants who have legitimate grievances that are fearful that in the course of events they may, in fact, lose the case and then be saddled with heavy costs and therefore, are deterred from seeking genuine justice.

The purpose is not to allow frivolous suits. Courts can throw out frivolous suits if they wish, on those grounds, and that is what the court process exists for. You can march into any government office in the city on any matter whatever and they can say, "No, you do not belong here. This is not the place for you to be, you have no claim, you have no grievance, you have no whatever-the-office-is-set-up-for."

You do not, then, pay the office for having the gall, the arrogance, to walk in to this government office paid for by the taxes and the taxpayers. That is all that this says. The courts have kind of set themselves up above the rest of all the government in a way that seems somewhat offensive. This is an attempt to bring them into line by saying, "The judicial process exists to serve the citizen wishing to avail her or himself of it without the necessity for paying an on-the-spot fee, in effect, for doing so."

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Therefore, that is all, I urge you to vote this amendment.

CHAIRPERSON HARRIS: Delegate Long.

DELEGATE LONG: In the proper application of public finance, not every service provided by a jurisdiction is funded out of general tax funds. There are many, many services such as the provision of water in this city that are not paid for with tax funds. There are many, many services in this city such as water which is provided by fees of the user.

There is nothing unusual about user fees for some services. I understand what the committee is trying to do here. They are trying to make the court system easily-accessible to those who need it.

However, this is too much of a move in that direction because you will find that people perfectly able to pay are also not going to pay.

DELEGATE KAMENY: Right.

DELEGATE LONG: So I think there should be some kind of a middle ground here for people obviously unable to deal with court costs and that is the way to approach the question rather than throwing a complete burden on the court system and on the taxpayer.

And I don't like what the committee says but I

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don't like [inaudible] all together and [inaudible.]

CHAIRPERSON HARRIS: Okay. Delegate Long, were you opposed to this or supporting it?

DELEGATE LONG: I am in favor of striking, on balance.

CHAIRPERSON HARRIS: Delegate Freeman.

DELEGATE FREEMAN: I have a question for the committee. As the committee believed, obviously, that the second sentence [inaudible] why, in the [inaudible] general philosophy of the access --

SEVERAL VOICES: Can't hear you. Still can't hear you.

DELEGATE FREEMAN: I am just asking the committee what is the logic behind having the last sentence? I know that you said two things. One was to make sure that litigants who cannot pay could have access to the courts and that seems to be covered by the second sentence.

In addition, you wanted to have -- you are supporting a general philosophy that all government agencies should be accessible to the people. Is that correct?

DELEGATE KAMENY: The question is answered fully in the committee's report which takes up the three provisions of this section seriatim and deals at greater length with

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them than unless you choose, I think, the Convention's time should be spent on. But there is a lengthy section on each of the sentences in that and that answers your question fully including the distinctions which you have requested.

CHAIRPERSON HARRIS: Is there anyone else who would like to speak in opposition to the deletion? Delegate Talmadge Moore?

DELEGATE TALMADGE MOORE: I question line 23 also. I speak in opposition because I think the persons who have the means should pay their own way. I think they should pay their own way and I would hope that someone could put some verbiage in here that would require the person with better than average means that they would have to pay their own way, that's all. So therefore I oppose it.

CHAIRPERSON HARRIS: Okay, Delegate Brian Moore.

DELEGATE BRIAN MOORE: Yes. Madam Chairman, I would like to offer an amendment to Section 19, line 23 to read as follows:

"Court costs shall not be required of litigants."

CHAIRPERSON HARRIS: We need to vote what is on the floor up or down before you present your amendment.

DELEGATE KAMENY: You are out of order.

A DELEGATE: Let him do it.

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CHAIRPERSON HARRIS: You said line 23, didn't you?

DELEGATE BRIAN MOORE: Yes.

CHAIRPERSON HARRIS: Is this a substitute motion?

DELEGATE BRIAN MOORE: Yes.

CHAIRPERSON HARRIS: Okay.

DELEGATE BRIAN MOORE: "Court costs shall not be required of any litigants if they are able to demonstrate their financial limitations."

DELEGATE LOVE: Please repeat that.

DELEGATE BRIAN MOORE: [Repeats as above.]

DELEGATE MARCUS: That doesn't say anything. That does not say what you want it to say.

CHAIRPERSON HARRIS: Is there a second to the Brian Moore substitute?

Is there a second?

It dies for a lack of second. Okay, back to the Oulahan amendment. Delegate Robinson.

DELEGATE ROBINSON: I have a question for Delegate Moore and my question is, in some state constitutions there is a dollar amount set on cases that can be tried by jury. My question is, why did this committee not set a dollar amount? In some constitutions, $250 is the amount that must be exceeded in order to have a trial by jury.

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DELEGATE ROTHSCHILD: Point of order. That is not germane to what we are talking about. We are talking about dropping the last line.

CHAIRPERSON HARRIS: We are speaking specifically on the last sentence of line 23, Delegate Rothschild.

DELEGATE ROBINSON: I don't see what about it is not germane.

CHAIRPERSON HARRIS: Delete "Court costs shall not be required of any litigant."

DELEGATE ROBINSON: What about this is not germane? We have been talking about costs and why there was not a monetary dollar amount put on the ability of a person to have a trial by jury.

DELEGATE JACKSON: I would like to say something.

CHAIRPERSON HARRIS: Delegate Jackson.

DELEGATE JACKSON: Yes, Ma'am. I would like to amend the sentence starting with court costs and make it, "Any litigant unable to pay."

CHAIRPERSON HARRIS: I did not hear that.

DELEGATE JACKSON: Make it "Any litigant unable to pay."

CHAIRPERSON HARRIS: You want to add the phrase, "Unable to pay."

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DELEGATE JACKSON: Yes, Ma'am.

CHAIRPERSON HARRIS: Okay, is there a second to Delegate Jackson's amendment?

[The motion is made and seconded.]

CHAIRPERSON HARRIS: All right, the motion has been made and properly seconded and he is asking that on line 23, after "litigant," that we remove the period and put "unable to pay." Discussion on that amendment.

DELEGATE KAMENY: Point of order, Madame Chair. This room is noisy. I would request, particularly request that you gavel us firmly into silence. Thank you.

CHAIRPERSON HARRIS: Thank you, Delegate Kameny. [Raps gavel.] Delegates Marcus, Jordan -- we would like to have your full attention. Is there any discussion on Delegate Jackson's amendment? [No response.]

Delegate Jackson, do you want to speak --

DELEGATE JACKSON: Yes, Madam Chairman, I would just say one thing. I fully understand the desires of some to not want to make corporations not pay for civil suits and things like that, if that is the intent. However, I do not think that poor people should be denied the system of justice because they have no money.

As we know now, it takes at least $40 for one to

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file for court costs and for trial by jury you have to pay extra money and this is known very well by many people here and I don't think poor people or those unable to pay should have to demonstrate a standard of income in order to go to court and that is what any other thing would do.

CHAIRPERSON HARRIS: Very well.

DELEGATE JACKSON: And that is why I propose my amendment. Thank you.

CHAIRPERSON HARRIS: Thank you, Delegate Jackson. Delegate Maguire, do I see your hand?

DELEGATE MAGUIRE: I call the previous question.

The previous question has been called and seconded. All in favor of cutting off debate?

[There is a chorus of ayes.]

All opposed?

[No opposition. Unanimous agreement.]

CHAIRPERSON HARRIS: The motion before us by Delegate Jackson is to add the phrase at the end of line 23, "Unable to pay." All in favor, let it be known by raising your hands.

[In a raising of hands, 20 are in favor, 8 are opposed, 3 abstain.] [Motion carries.]

CHAIRPERSON HARRIS: The motion carries. We are

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back to the Oulahan --

DELEGATE OULAHAN: I withdraw my motion because it has been overruled by the Jackson Amendment which we just passed

CHAIRPERSON HARRIS: All right, the Oulahan Amendment has been withdrawn. Back to the original section -- the motion as amended, Section 19.

DELEGATE JERRY MOORE: Madam Chair, I move Section 19 as amended.

[Motion made. There are several seconds.]

CHAIRPERSON HARRIS: Section 19 has been moved and seconded as amended. All in favor of Section 19, let it be known by saying aye.

[There is a loud chorus of ayes, lesser of opposed.]

CHAIRPERSON HARRIS: So adopted. Delegate Moore.

DELEGATE JERRY MOORE: Madam Chairman, I move Section 20, dignity.

[Motion made and seconded.]

CHAIRPERSON BALDWIN: Section 20 has been moved and properly seconded. We are now ready for discussion.

Delegate Harris.

[At this point, Chairperson Harris has stepped aside and Vice President Baldwin chairs.]

DELEGATE HARRIS: Mr. Chair, I would like to move

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that we delete most of Section 20, keeping part of the line -- the sentence on line 4 and my reasons are thus.

Section 20 is included in the article on Health, Housing and Social Service. 8.1 of the Health and Housing Article discusses decent health care. Section 8.7 discusses day care. Section 8.10 of Health/Housing discusses decent housing. 8.11 discusses cultural resources.

Therefore, I would like to amend this section to say, using part of line 4, "Every person shall have the right to employment or if unable to work, an income sufficient to meet the basic human needs."

VOICE: Repeat that.

DELEGATE HARRIS: Okay, I am taking Section 20 and amending it to read [Repeats proposed amendment, except says "basic human needs" rather than "the basic human needs.]

[Motion made and seconded by Delegate Croft.]

CHAIRPERSON BALDWIN: Okay, it has been moved and properly seconded that Section 20 as read be amended to Section 20 as read. Discussion. Delegate Robinson.

DELEGATE ROBINSON: Thank you. I had my hand up earlier to move for the complete elimination of Section 20. However, with the amendment as offered by Delegate Harris, I would urge my fellow Delegates to support the amended Section

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20 as read by Delegate Harris.

CHAIRPERSON BALDWIN: Delegate Jackson.

DELEGATE JACKSON: The Committee will accept the language of Madam Harris.

CHAIRPERSON BALDWIN: Okay.

DELEGATE JACKSON: If that will satisfy it so we can cut off debate.

CHAIRPERSON BALDWIN: Sure. The committee will accept the amendment. Any further discussion? Delegate Long?

DELEGATE LONG: The committee's language has not made the bridge to the new statement. There is a significant pharase missing and I move to amend the substitute to "within the state's ability to provide." The way the wording stands now, the state must provide employment for everyone who asks for a job and I believe it is just plainly impractical.

With all the national policy, the Full Employment Act of 1946 and so on, we have not yet been able to provide jobs for everybody that wants one.

CHAIRPERSON BALDWIN: Delegate Long, be specific. Is that your wording, "within the state's ability to provide," that you want to appear on that amendment? You have to state it somewhere?

DELEGATE LONG: I think that phrase should be

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inserted after the word "rights" and that is my proposed substitution.

VICE PRESIDENT HARRIS: I don't think that I would like to accept that because -- are you saying the secondary amendment?

DELEGATE LONG: Yes, the amendment to our substitute.

[Motion made and seconded.]

VICE PRESIDENT HARRIS: I would like to urge the Delegates to vote down that amendment because I think the state should have a responsibility there, a definite responsibility to provide employment or income for people unable to work and you are saying that it can be optional, within their purview and we are saying that they have to do that. That is one of the responsibilities of the state to its residents.

VICE PRESIDENT BALDWIN: Delegate Cassell.

[Note: In this meeting, President Cassell is on the floor as a Delegate and both Vice President Baldwin and Vice President Harris chair the meeting.]

DELEGATE CASSELL: Mr. Chairman, as Delegate Long has said, it would be difficult for the state to provide jobs for all persons -- provide employment for all persons who want to work and it would be difficult for them to provide the income.

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I would point out, as Delegate Harris has said, that if that became the responsibility of the state, then the state would indeed provide it and I think it would be practical and it would not be difficult at all.

Some people like to attach certain labels to that philosophy, labels that may castigate. So I would submit that the state is already, all states have already demonstrated that it is possible to provide full employment. It has simply never been the law. It has never been required.

Now, how do we know that it is possible for the state to provide full employment if that is, indeed, a part of its responsibility? No state has ever had difficulty providing the number of police or law enforcement officers that are decided by the state at any time to be needed, never.

Sometimes it is a political matter as to how many policement we shall have.

No state has ever had any problem providing a sufficient militia to take care of the needs of the state.

The Federal Government certainly never, even in the worst of times -- and this is supposed to be very difficult times economically -- providing full employment for the United States Army, the United States Navy, the Air Force and the Marines. There is always money for that because the state

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wants to. It desires to. Inasmuch as it has been demonstrated that most states do not consider full employment as a primary responsibility, there is no law that requires that, nor is that in any constitution.

One Delegate has constantly compared our various sections with the United States Constitution. I think there was an excellent rejoinder to that and that is where the United States' Constitution has proven to be inadequate to deal with the rights, the human needs and the basic dignity of people, then perhaps we ought to deal with it ourselves.

Therefore, I would strongly urge that the amendment be defeated and leave it the responsibility of the state to provide something that is very, very basic and perhaps may even eliminate the tremendous amount of money that we spend for our prisons by making it the responsibility of the state to see that there is full employment.

VICE PRESIDENT BALDWIN: Delegate Talmadge Moore, then Delegate Rothschild -- in that order.

DELEGATE TALMADGE MOORE: I have a point of personal inquiry, Mr. Chairman. I wanted to ask the Committee what do they mean by what they say in line 3 and what was the interpretation of line 5, the last words?

VICE PRESIDENT BALDWIN: Delegate Talmadge Moore,

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we have to speak right to what is on the floor and that is not on the floor now. There will be a time when that will be in order. Delegate Bruning.

DELEGATE BRUNING: Yes, I would like to speak against the amendment. Although philosophically, I believe, indeed, that the state has a right and indeed, the state has an obligation to pay for it, I am afraid politically that the failure to put in "within the ability to pay -- within the state's ability to provide" is going to be a noose around this Constitution. Very simply, I do not see that the state has -- or at least, to me has demonstrated either the will or the ability to do it and I may add that in terms of the present economic system in which we live, indeed, I think probably it would be an impossible thing to do.

So I speak against it, not in disagreement with the principles but simply in disagreement with the practicality of it and indagreement with, I think, the ultimate effect it will have on the Constitution.

VICE PRESIDENT BALDWIN: Delegate Rothschild.

DELEGATE ROTHSCHILD: Yes, briefly, I think that we would be burning the candle at both ends and in the middle, too, as a matter of fact. We already have required things and now we will be promising people jobs that will be very expensive

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to the state. We have also required a balanced budget.

That's why I agree with Delegate Bruning, in principle with what he is saying, that at a national level, where we have greater access to revenue, I would say that we might want the government to be the employer of last resort. Maybe that someday will be the case as it is in a national situation.

But on the local level, I don't think that we have the revenue or the ability to provide for that. And besides, quite frankly, if we set up too good a system in this state, well, everybody will move here. I mean, if nobldy can find employment in some other part of the country, they will come to D.C. As a matter of fact, I would invite some of my relatives and have them come. That is a pretty good benefit and I don't think that we can afford it.

VICE PRESIDENT BALDWIN: Delegate Love.

DELEGATE LOVE: Mr. Chair, previous delegates have stated that they do not know a time when police have been cut back. I happen to have been born and raised in Detroit, Michigan. Michigan is cutting back on its police. It is cutting back on its educational systems. Detroit is cutting back on its police. It is cutting back on its schools. The fact of the matter is that times in Michigan are very hard.

There is no way that Michigan can provide jobs for

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the thousands and thousands of people that have been put out of the factories and the automobile industry.

What is happening in the District is that the middle class people are moving out because right now we have one of the highest tax rates in the country, period. You are again spending taxpayers' money. To say that the state will provide these things is ridiculous. It is the taxpayers that will provide these things. And I think that we would all agree that we would like the state to provide these things. We have a 50, 60, 70 percent unemployment rate among youth. But if there is nobody left in the state to pay the taxes, those things cannot be provided.

I think this is a worthy principle. I think the state should do it to the extent of its ability to do it. I think to require the state to do it is impossible. I would urge you to support the Long amendment or perhaps Delegate Harris could come up with some alternative language.

As it now stands, I see no way this can be done and I see only people being driven out of the state who are middle income people.

VICE PRESIDENT BALDWIN: Delegate Jerry Moore.

DELEGATE JERRY MOORE: Mr. Chairman, the committee favors the amendment that has been stated. One thing, I think

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we should keep in mind that constitutions are broad goals toward which a society works. To say that you have a right does not mean that it is going to be fulfilled tomorrow morning.

We are still trying to fulfill the Constitution of the United States. It has a lot of lofty and worthwhile goals in there but we are still trying to make it come true.

In my opinion, we should never write a document that does not have high and lofty goals in it toward which we strive. To write anything less would be to deceive the people for whom we perform a service in writing a constitution and I believe that as we draft this document, looking forward to the future, that the goals and the ideals should be lofty.

They should imply the kind of society in which we want to live and which we want our prosperity to live in. To do less, would be to shortchange the future and to limit the capability of the people who live to see us as citizens of the District of Columbia.

Whether it takes 20 years or 50 years, 100 years or more to accomplish these ends is really the important question. Much of what we are doing here in terms of drafting the Constitution will not be realized in our lifetimes. We are setting a standard. We are establishing goals. We are drafting the broad perimeters for a new society, the kind of society that

we dream about, the kind of society that we would want to see perfected for ourselves and our children's children.

VICE PRESIDENT BALDWIN: Time is up.

DELEGATE JERRY MOORE: We must work for that.

Thank you, Mr. Chairman.

VICE PRESIDENT BALDWIN: Thank you.

Delegate Brian Moore.

DELEGATE BRIAN MOORE: I rise in support of Delegate Long's amendment. I do believe that people have a right to a job and I think it is still mentioned here in this section but we also have to be practical with regard to limitations. That does not detract from the fact that we have leaders and we have a legislature that we can pressure and we can push and encourage to support the right priorities of our society and I believe we do two things here.

We recognize the individual's right to a job but at the same time, recognize our limitations and by putting that in the Constitution, we will enable ourselves politically to gain statehood and then it will be up to us to support the Governor and support the type of people in the legislature who would push for this priority.

And I think that we can basically gain in both areas so I would urge Delegate Long's amendment be affirmed.

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VICE PRESIDENT BALDWIN: Delegate Maurice Jackson.

DELEGATE JACKSON: I think that -- as you know, very highly of Reverend Moore and his committee and I think since the language has been changed by the committee, I would like to speak against the Long amendment for the following reasons, Mr. Chairman.

I read the Washington Post on Monday and I read an interesting article about economics and what the article in the Washington Post says is this, that it holds that it is a fundamental right of the utility investment to earn a fair return on their money, a right that is the basis of utility rate-making in every state in the nation.

Now, I ask, why is it the right of Pepco and other companies to make millions and millions and billions and trillic and whatever is after that, but my young black children don't have a right to a job? I think that should be an asked questior

We did not discuss anything else about setting laws on other measures, including profit-making. The state does have an affirmative obligation to provide to the best of its ability for the citizens.

Now, what does that mean? Something like that is going on in this place or it is not. Plus what the Bill of Rights does is it stresses affirmative rights to individuals.

Is this in the right place or isn't it?

That is what this does. So for that reason, I would urge you to vote against the Long amendment and I would strongly support the Harris amendment. It does what we needed many years ago. Thank you.

VICE-PRESIDENT BALDWIN: Delegate Samuel Robinson.

DELEGATE ROBINSON: I move the previous question.

[Motion made. There are several seconds.]

VICE PRESIDENT BALDWIN: It has been moved and properly seconded that we terminate debate. Those in favor signify by show of hands.

DELEGATE LONG: I wish to speak last as provided for by the rules.

VICE PRESIDENT BALDWIN: The rules do not provide that you speak last. You spoke first. The rules say you may speak last. I think we have had five for. You spoke at length, over two minutes. We are now in the process of voting.

Those for the Long amendment --

A DELEGATE: We should be voting to terminate debate, Mr. Chairman.

VICE PRESIDENT BALDWIN: I am sorry. Those for terminating debate. Show of hands, please.

[There is a show of hands.]

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Those in opposition.

[There is a show of hands.]

Abstention. The Long motion was defeated.

MANY VOICES: No. No.

VICE PRESIDENT BALDWIN: I am sorry. That is okay. Take it easy. We have now terminated debate. Those in favor of the Long amendment, signify by a show of hands.

[In a vote by show of hands, 6 are for, 17 are opposed, 1 abstains. Motion loses.]

VICE PRESIDENT BALDWIN: The Long amendment was defeated. We are now back to the primary amendment by Delegate Harris. It reads, "Every person shall have the right to employment or, if unable to work, an income sufficient to meet the basic human needs.

Discussion. Delegates Freeman and Croft.

DELEGATE FEEEMAN: I call the previous question.

[Previous question called and seconded.]

VICE PRESIDENT BALDWIN: It has been moved and properly seconded that we terminate debate. Those in favor, signify by saying Yes.

[In a voice vote, motion passes.]

VICE PRESIDENT BALDWIN: Debate has been terminated.

DELEGATE LONG: Is this the Harris amendment?

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VICE PRESIDENT BALDWIN: We have terminated debate, sir, on the Harris amendment.

DELEGATE LONG: There has been no debate on this. I wish to speak against the Harris amendment.

VICE PRESIDENT BALDWIN: Delegate Long, you may speak.

DELEGATE LONG: Let me say that what we have before us is an open wound to the fiscal integrity of this new state. Any person -- and there's no residency requirements on this -- any person in the United States can come to this state and demand a state-supported job. I can see a population of two million, three million -- the unemployable of 48 continental and the two extra-continental states will move to Washington will the full knowledge that they can demand a job in this city.

Now, that may seem amusing, but that is what it really says. It is absolutely uncomprehensible as to how we can vote for this. I have, up to this point, asked for simplicity and straightforwardedness. Now, I can feel in the pit of my stomach, fear for the impossibility that any state is going to survive this constitution.

VICE PRESIDENT BALDWIN: Those in favor of the Harris amendment, vote aye by a show of hands.

[In a vote by show of hands, 13 for, 7 opposed, 3 abstain. Motion passes.]

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VICE PRESIDENT BALDWIN: The Harris amendment was adopted.

VOICE: What was the vote, please?

VICE PRESIDENT BALDWIN: Thirteen for, seventeen against and three abstained.

DELEGATE JERRY MOORE: Madam Chairman -- Chairlady --

[A call goes up from the floor for a roll call vote.]

VICE PRESIDENT HARRIS: Delegate Jerry Moore.

[Many voices: Roll call. Roll call vote.]

VICE PRESIDENT HARRIS: What bothers me, I guess, is the fact -- and I must say this -- that we can have a roll call and we can pay for it but the six people who spoke in opposition, which is fine, and voted against should not use the roll call to their advantage.

The count is clear, 13, 7, 3. There is no mistake. And you know what financial strain at this time we are under. And as delegates, you should see that we move on and not work in a way that would slow the process. Delegate Love.

DELEGATE LOVE: The point of the roll call is to that the record be clear as to who voted for and against it, not to make clear a count in this case. And the amount of money that these delegates are proposing to expend on this one amendment is going to be millions of dollars. That is why we

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are asking for a roll call.

VICE PRESIDENT HARRIS: May I see the support again for the roll call?

[More than five persons wish a roll call vote.]

VICE PRESIDENT HARRIS: This is roll call on the Harris amendment, the new section 20. Because Delegate Cooper is not here, let's start right here with --

DELEGATE SIMMONS: Madam Chair, a point of personal privilege.

VICE PRESIDENT HARRIS: Yes, Delegate Simmons.

DELEGATE SIMMONS: A point I wish to make is that I believe that implicit in the statement just made by way of explanation by Delegate Love is to suggest, A, that the amendment is unreasonable and irresponsible and therefore, anyone who supported it is equally unreasonable and irresponsible.

I reject that notion and I would point out that whenever it comes to dealing in a constitutional way with the ideals of a people and the quality of life, that there gets to be immediately placed a price tag.

What we have in this nation is a Constitution that sits under plexiglass that has had a considerable credibility gap for some 200 years for many of us but we did not cease to have the document there and to have the idealism that it represented.

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So I do therefore, find neither this kind of amendment irresponsible and unreasonable and I am not about to put a price tag on the quality of life that we should aspire for this new state.

[Applause.]

VICE PRESIDENT HARRIS: Very well-spoken, Delegate Simmons.

Please, will all Delegates stay within the room and vote. Please call the roll.

[SECRETARY BRUNING calls the roll with results as follows:]

Love, No; Maguire; Marcus, Yes; Charles Mason, Yes; Hilda Mason, Yes; Brian Moore, No; Jerry Moore, Yes; Talmadge Moore, Yes; Nahikian; Nixon; Oulahan, No; Paramore; Robinson, Yes; Rothschild, No; Schrag; Shelton, Yes; Simmons, With pride and great pleasure, Yes; Terrell, Yes; Thomas, Yes; Warren, Yes; Baldwin,Yes; Barnes; Blount; Bruning, No; Cassell, Yes; Clarke; Coates; Cooper; Corn; Croft, Emphatically, yes; Eichhorn; Feely, with reasonableness and responsibility, yes; Freeman, with great pleasure, yes; Garner; Graham, wholeheartedly, yes; Harris, definitely, yes; Holmes, I am proud to say yes; Jackson, Yes, sir; Johnson, Jones; Jordan, For the new day and the new times, yes; Kameny, Deeply troubled and with mixed feelings,

abstain [laughter]; Lockridge, Yes; Long, No.

SECRETARY BRUNING: The count is 22, 6, 2.

VICE PRESIDENT HARRIS: The Harris Amendment passes.

Delegate Jerry Moore, will you please move on to section 22?

DELEGATE JERRY MOORE: Madam Chair, we have not adopted this one yet.

VICE PRESIDENT HARRIS: Oh, I am sorry. Please move its adoption.

DELEGATE JERRY MOORE: Madam Chair, I move Section 20 as amended.

[Motion made and seconded.]

VICE PRESIDENT BALDWIN: It has been moved and properly seconded that we adopt Section 20 as amended. Those in favor, say yes.

[In a voice vote, Section 20 passes.]

VICE PRESIDENT BALDWIN: Section 20 has been adopted as amended. Section 22.

DELEGATE JERRY MOORE: Madam and Mr. Chair, I move Section 22, the right to change.

VICE PRESIDENT BALDWIN: Is there a second?

[Motion made and seconded.]

VICE PRESIDENT BALDWIN: It has been moved and

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properly seconded that we adopt Section 22, the right to change.

Discussion? Delegate Harris and Delegate Oulahan.

DELEGATE HARRIS: Delegate Moore, I am deeply troubled by Section 22. I'm troubled because I read into the sense of this article that the people have a right --

VICE PRESIDENT BALDWIN: [Rapping gavel] Order, Please, order.

DELEGATE HARRIS: I am deeply troubled by Section 22 because to me, it states the people will have a right to overthrow the government, to abolish it and form some other type of structure and that bothers me.

It seems to me that when we grow dissatisfied, as the Article states, with the existing government, that we use the procedures that we now use or come up with other procedures and that is to protest and that is to lobby and that is to use our vote and whatever other creative method we so desire, to show the government our dissatisfaction.

But to recommend that we reform it or abolish it, a government that we are sitting here developing, I have very serious problems and I am asking the group to delete section 22.

I have nothing to put in its place, maybe somebody else has, but I would delete section 22.

VICE PRESIDENT BALDWIN: Delegate Oulahan, Marcus and Freeman.

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DELEGATE OULAHAN: First a question. Did Delegate Harris move to delete the section?

VICE PRESIDENT BALDWIN: Yes, she did.

DELEGATE OULAHAN: I speak in support of the deletion of the section. I speak in support of the amendment and I will be very brief. May I speak?

VICE PRESIDENT BALDWIN: Yes, you may.

DELEGATE JACKSON: Go near the microphone.

DELEGATE MARCUS: Good afternoon, Courts.

DELEGATE OULAHAN: It is a pleasure to heartily support Delegate Harris.

[Laughter.]

DELEGATE KAVENY: It happens so rarely.

DELEGATE OULAHAN: This section, as she points out, is a mischievious piece of legislation. It does advocate the right of revolution. It purportedly is based upon a provision in the Declaration of Independence which stated there that the people of the Colonies wanted to alter and abolish their form of government.

That declaration, contained in the Constitution in Article 4, Section 4, which guaranteed a democratic form of government to every one of us in this Hall and to our future generations.

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What the committee has proposed, contrary to Article 4 in decisions of the Supreme Court, is a thinly-veiled method of revolution which permits abolition of the state by any means available.

I tell you that even though this may have been contained in other constitutions, it is so clearly contrary to democracy that I cannot think of anything that will make the people of this city reject the Constitution and Congress will join in heartily. I urge you to vote Section 22 down. Thank you.

VICE PRESIDENT BALDWIN: Delegate Marcus.

DELEGATE MARCUS: It is interesting that Delegate Oulahan claims that what is contrary to democracy is the very basis of democracy and offers the ability of the people to determine what their state shall be constituted of.

Let's take a look at other state constitutions. Several of them, in fact, more than several of them -- and let me enter this on the record -- Alabama, California, Arkansas, Alaska, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Pennsylvania, Texas, Utah and Virginia, of the 26 that this committee surveyed, all have provisions which said essentially the same thing.

I am tired of being told that in fact, when we are

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trying to preserve the rights of the people to determine what their government looks like that we are somehow undemocratic.

And let me read into the record at least three of those statements. Let's take a look at Alabama, for example.

DELEGATE SHELTON: Awww, let's don't take a look at Alabama.

DELEGATE MARCUS: Section 2 of Article 1 says --

[Chairman rapping for order.]

DELEGATE MARCUS: -- says -- says that all political power, all political power is inherent in the people.

VICE PRESIDENT BALDWIN: Delegate Marcus, slow down so we can understand, please, and not so loud. You were reading Alabama --

DELEGATE MARCUS: Excuse me. It says that all political power is inherent in the people and therefore, they have, at all times, inalienable and a defensible right to change their form of government in such manner as they may deem expedient.

Let's take a look at the State of Maine. The State of Maine says all power is inherent to the people. All free governments are found in their authority an institute for their benefit and they have, therefore, unalienable and an indefensible right to institute government and to alter, reform or

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totally change the same when their safety and happiness require it. And let's take a look at the State of Montana.

The State of Montana says that people have the exclusive right of governing themselves as a free and sovereign and independent state and they may alter or abolish the Constitution and form their government whenever they deem necessary.

There is nothing unusual about this. There is nothing antidemocratic about this. There is nothing more in here than saying that the people have the right to control their own government.

VICE PRESIDENT BALDWIN: Time. And your point has been made. Delegates Freeman, Simmons and Jordan.

DELEGATE FREEMAN: I want to reiterate what Delegate Marcus has said. There is nothing bizarre about this section. It is a fundamental democratic right of people to be able to change the form of our state and in the U. S. Constitution, it says that the United States shall guarantee that the State shall have a republican form of government so there is nothing even that radical about this section. I urge you to vote for it.

VICE PRESIDENT BALDWIN: Delegates Cooper, Jordan and Croft. Delegate Simmons.

DELEGATE SIMMONS: Yes. I wanted to point out that

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to me, this section provides for the enabling legislation that already permits the revision of this Constitution every ten years whether we want to or not so if it is going to have that kind of scrutiny which gives us the mechanism, I do not see the difference between this and the mechanism earlier in the document already provided.

VICE PRESIDENT JORDAN: Yes, Mr. President, I am deeply troubled -- Mr. President and Fellow Delegates, I am troubled by the fact that a delegate who is a historian would introduce an amendment without taking into consideration the historical precedence that this amendment is contained in.

I would only suggest that a noted historian, Joyce Lee Malcolm, in all of her writings, has made a very clear statement about the right of the people to abolish governments and one of the things that strikes me is, a section in the Declaration of Independence which says that whenever government becomes destructive to these ends, the people have the right, if not the obligation, to abolish that form of government.

Now, maybe that is radical but the Founding Fathers of this Nation established that language.

But what strikes me even more is the reference or the implication or the inference that through an orderly process

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of demonstration, through an orderly process of petition to the government, somehow we will prevail and get the government to change itself.

Now, we know our experiences in the '50's, the '60's and in part during the '70's. And to be honest with you, I never saw much change, even though I participated in many of the struggles -- I never saw much change come out of the ordered process that was established.

In fact, I think the process was done in such a way so as to dissipate some of the thrust, some of the energy and some of the direction that we were headed for.

Now, I want to make one last statement. Because if, in fact, we are saying we don't want the people -- first, I have a problem with one thing but I'll talk about that later.

But if we do not want the citizens of this state to have a right to abolish the government and we are saying that the state is going to be all-powerful -- and I would only note that in previous section we have made the Governor of this State the commander-in-chief.

Well, I am just saying, if we are going to have a strong state army, then we need to have a balance for the citizens and I am certain that the people here are not going to support that. Thank you very much.

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VICE PRESIDENT BALDWIN: Delegate Croft.

DELEGATE CROFT: I would like to correct some factual errors that were made in support of the amendment by Delegate Oulahan.

Number one, the U. S. Constitution did not guarantee a democratic form of government. The U. S. Constitution guarantees a republican form of government and I would like to point out that E. Salvador is a republican form of government, the Union of South Africa is a republican form of government, Chile a republican form of government and we can name dictatorship after dictatorship.

The U. S. Constitution only guarantees a republican form of government.

I would like to make another point, too. There is the historical misnotion that the U.S. was founded as a democracy. It was not founded as a democracy.

There is a historical confusion that the signers of the U. S. Constitution were founding a democratic society. The Federalists were not. It was the anti-federalists.

Hamilton directly argued that indeed, they were organizing the government to be able to control the mob and the mob were those people who wanted democracy. There is legion on legion on legion about that. You know, you can just simply

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read Richard Hoffstetter, who was no radical, who was no ideologue. He was a fine American historian. And you can read the other histories of that.

So the point is this. The simple point I am trying to make is that there is no guarantee in the U. S. Constitution that there will be democratic societies. The only guarantee in the U.S. Constitution is that there will be a republican form of government, short and simple.

And I am just making that point because there have been a series of historical statements that, you know, do not stand the test -- do not stand the test.

Democracy was achieved in this country. It was achieved with blood, sweat and tears and struggles and indeed, we do not have yet a fully democratic society.

VICE PRESIDENT BALDWIN: Delegate Warren, then Feely and then Delegate Hilda Mason.

DELEGATE WARREN: I want to make a substitute motion. Or it may be an amendment. I am not sure.

VICE PRESIDENT BALDWIN: All right, you present it and we will determine whether it is a substitute motion -- the Chair will determine whether it is a substitute motion or an amendment.

DELEGATE WARREN: "This state, with its institutions,

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belongs to the citizens who inhabit it. Whenever a government becomes destructive to this end, they may exercise their inalienable right to alter, reform or abolish it."

VICE PRESIDENT BALDWIN: That is a substitute motion for the section. It is in order.

[Motion made and seconded.]

VICE PRESIDENT BALDWIN: It has been properly moved and seconded that we adopt the Warren substitute. Is the Warren substitute clear?

DELEGATE BRIAN MOORE: No, repeat it, please.

VICE PRESIDENT BALDWIN: Mr. Secretary, will you read the Warren substitute motion?

SECRETARY BRUNING: [Rereads substitute motion.]

VICE PRESIDENT BALDWIN: Delegate Harris.

DELEGATE HARRIS: I would like to do two things. I would like to amend the substitute and withdraw my original motion. And what I would like to do is amend this substitute by deleting the word "abolish."

SEVERAL DELEGATES: I don't understand.

VICE PRESIDENT BALDWIN: No, no, it is very clear what she has done. The only thing on the floor at this point, since she withdrew her primary amendment, is a substitute motion. A substitute motion can be amended. She is amending

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the substitute motion by deleting the word "abolish"?

By deleting the word "abolish." Those in favor -- All right, she is amending it by deleting the word "abolish" so when you speak, speak for deleting "abolish" or against it and that is all you can be speaking to. That is all that is on the floor.

Delegate Robinson and Brian Moore.

DELEGATE ROBINSON: Mr. Chair, I stand to speak against removing the word "abolish." It appears to me that the history of government and the inalienable rights of the people to alter that government, to reform that government -- and in circumstances wehre reformation and the process of alteration failed, then the people should have the right to abolish that form of government and replace it with a government that is more in tune with the wishes of the population.

So I ask my fellow delegates not to gut the intent of this particular section by removing this most important word and that word is "abolish."

VICE PRESIDENT BALDWIN: Delegates Cassell and Bruning.

DELEGATE CASSELL: A short time ago when we were discussing the article having to do with tenure for public officials, we evidenced extreme distrust of our public officials

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who would administer our government and we attempted to levy heavy burdens upon those who may misuse their trust.

It was suggested that perhaps once we elected individuals that we not try to impeach them after six months, right? Or a year. And there was a deep concern about the possibility that the government officials that we elect may abuse the trust and so they should easily be removed.

Now, if that be the case, then those persons are dealing with and molding and administering a government. Certainly, if we have that kind of distrust for the officials who provide the basis and even administer to the structure of the government, we should be very careful not to eliminate our opportunity, not only to remove the officials but to abolish the government that they preside over -- if, indeed, it becomes so corrupt.

With that logic, I would suggest that we not consider eliminating the right to abolish the government if necessary.

VICE PRESIDENT BALDWIN: Delegate Bruning.

DELEGATE BRUNING: Yes. We come from a revolutionary tradition, although some of us would like to deny it. The American Revolution does not say that it is the final revolution.

We always, as a free people, believe that the government serves us and that when that government does, indeed,

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become destructive to our ends, the ends of the people it serves, we should have all the possible options available, including altering and ultimately, if need be, abolishing.

VICE PRESIDENT BALDWIN: I now ask the committee to respond, Delegate Jerry Moore or anyone you designate.

DELEGATE JERRY MOORE: Mr. Chairman, obviously, I am in support of the language that appears in this section.

You have a right to abolish the house you live in, if you own it. Or abolish your car. Or abolish your clothes -- which often we do. You can abolish anything you own.

Now, I think the struggle comes over the definition of the word "abolish." One of the things that jumps into our minds is by violence but there are many ways to abolish your things. You give your clothes away. What you did was, you abolished your ownership.

You send your car to the junkyard to be recycled. That is one way to get rid of it. You abolish the garbage in your house by either putting it in the garbage disposal or putting it in the trash for the trashman to take away. But you did not do it by violence.

Governments can be abolished by a peaceful process. We are abolishing politicians all the time by unelecting them. One day I will get unelected.

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DELEGATE KAMENY: Oh, that won't happen.

DELEGATE JERRY MOORE: And I will be abolished. You see what I mean? What we have here is simple language that gives the right to the people to get rid of something that does not function properly -- as sometimes your automobile or your refrigerator in the house does not function properly or your watch does not function properly.

It is just the art of disposing of it.

Now, we must not assume that people in the future are going to be any less intelligent than we are and thereby, when they become dissatisfied with something, that they are going to act in an irresponsible way. I would hope that successive generations to us will be more intelligent than we are. And be more skillful in the art of change than we are.

We are in the process of struggle, struggling to find our way. And that is what we are doing right now. And I insist that as we lay these foundations for the future, that we think broadly and generously about the people who are going to follow us.

I support what is before us and that is the recommendation of the committee.

VICE PRESIDENT BALDWIN: Delegate Oulahan.

DELEGATE OULAHAN: Mr. President, I will be brief

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but I have never been more serious. In the debate which has occurred, it has been conceded by those supporting Section 22 that this section has in it the right to revolution, the right to abolish the democratic form of government which we have in the District of Columbia and Mr. Jordan added another element, the right of the people to counter the militia.

That, to me, has implied in it civil war.

Now, what I want to say is, that I agree with my friend Jerry Moore that we have to believe that the people in the government, the people here, will act responsibly. But this section in the Constitution is a sleeper sitting there to be used by those who may not be democratically minded who might just want to pull off a facist or communist coup.

This section demans our Constitution, the people of this Convention and the people of this District of Columbia.

As to history, I outline the cases of the Supreme Court including White against Texas, which clearly states that a republican form of government is a democratic form of government, not that of the Republic of South Africa.

Mr. Croft has read his constitutional history enough and he could have read my p aper to find that out.

Thank you.

VICE PRESIDENT BALDWIN: Delegate Mason.

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DELEGATE HILDA MASON: Thank you very much, Mr. President.

Members of the Delegation, I stand here because I am really confused. I do not understand how we could say that a country which liberated itself through a violent revolution in the early days and built what we call the best democracy in the whole world is a bad thing to emulate. And yet, I am not talking about allowing revolution. I am saying that that is a part of our history that we came through a violent revolution.

I want to point out also that we here in this convention have designed the mechanisms for altering and changing and reforming and abolishing through the initiative and referendum. We have approved that.

That is also a law right now in the District of Columbia. We all of us sitting here also know that the voters voted for Home Rule. That was on the ballot. And that is a way to change, to alter, to reform, to abolish.

The Council of the District of Columbia repeals laws. That is abolishing. It is not -- as Reverend Moore says -- it is not necessarily a violent word. It only means that you follow the -- according to the Constitution -- I am interpreting it to mean that we would follow the Constitution in changing,

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reforming, abolishing, whatever we do -- we could put it on the ballot.

And at some time, Mr. President, I would hope that it would be appropriate to find out the answer -- and I am doing this because it is a public record -- and the materials which have been circulated here are public record also.

Mr. Oulahan's document says that it is unconstitutional and I do not understand how it is unconstitutional to change your form of government.

Thank you very much.

VICE PRESIDENT BALDWIN: Thank you, Delegate Mason.

Delegate Harris.

DELEGATE HARRIS: Mr. President, since there is very little support and in order to save time, I would like to withdraw that amendment to abolish and move on to the main amendment.

[Motion withdrawn.]

VICE PRESIDENT BALDWIN: The Harris amendment has been withdrawn. We will now return to the Warren amendment and Delegate Kameny will speak first.

DELEGATE KAMENY: No, I am merely -- I am speaking as an individual delegate at this point, if I may.

VICE PRESIDENT BALDWIN: I only said, "Delegate

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Kameny will speak first."

DELEGATE KAMENY: Thank you. I have a question to ask Delegate Warren with regard to the language of her amendment. He second sentence begins, "Whenever a government becomes destructive to this end." What end?

Your amendment as phrased does not have an end implied so I am left puzzled. I am not speaking in opposition or in favor of it. This is just a question.

I am seeking clarity because I do not understand exactly what you are referring to and I think that it is important that we know what the content of your amendment is.

DELEGATE JORDAN: She is referring there to the state as an institution that belongs to the citizens of that state.

DELEGATE KAMENY: So in other words she is saying that if it is perceived at some point that the state no longer belongs to its citizens that at that point, the latter part, the change comes into effect?

DELEGATE JORDAN: That is right.

SEVERAL VOICES: That is right. That is right.

DELEGATE JORDAN: Do you want to amend it to say that?

DELEGATE KAMENY: I made the inquiry merely for

clarity.

VICE PRESIDENT HARRIS: Delegate Freeman.

DELEGATE FREEMAN: I move to amend the Warren amendment to substitute the word "people" for the word "citizen."

[Motion made. There are two seconds.]

VICE PRESIDENT HARRIS: It has been properly moved and seconded that in the Warren amendment, that we substitute "people" for the word "citizen."

Delegate Jackson.

DELEGATE JACKSON: I'll soeak from here.

VICE PRESIDENT HARRIS: No, come get the microphone, please. We want you in the record.

DELEGATE JACKSON: It is often said, Madam Chair, that if the Bill of Rights was taken to the U. S. Congress, they would vote it down because they would think it was some great revolutionary document and I have heard that all my life and I think it would be true today. And maybe we could ask ourselves this, because quite often when we see words and concepts, maybe we understand it and maybe we don't but we become quite confused.

Maybe the confusion comes over the language, like the word "people," and that the state does belong to the

people when, in fact, Madam Chair, who does it beong to?

Now, this debate has gone on for a long time. For example, Alexander Hamilton said -- and he was the founder of the Constitution -- "The people is a great beast." And that is what it has always been. He said there should be no power in the magnitude of the multitudes. "The people is a beast."

What we are saying, Madam Chair, is the opposite, that this state belongs to those who inhabit it, the people indeed. It does not mean the word "citizen." We have never used the word "citizen" anywhere. When we spoke about the right to be free from discrimination, we said "persons."

It did not mean just any citizen. It meant persons, those who live here. We spoke about the right to procreate. We did not say citizens have that right. How could we? My goodness, what are we doing? We are saying that a person who lives in the state is not a citizen, does not have a right?

The language, Madam Chair, is very dangerous. It serves no purpose. And the word people is fully in conjunction with all those things that have been laid down in the Bill of Rights and the Declaration of Independence.

VICE PRESIDENT HARRIS: Okay, so you support "people."

DELEGATE JACKSON: And the Articles of the Confederation. I support the Freeman amendment.

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VICE PRESIDENT HARRIS: Okay, Delegate Shelton.

DELEGATE SHELTON: Delegate Freeman, I would like you to withdraw your motion to substitute the word citizen for people --

SEVERAL VOICES: No, no, she was substituting people for citizen.

DELEGATE SHELTON: Oh, okay. I misunderstood.

VICE PRESIDENT HARRIS: Delegate Jordan.

DELEGATE JORDAN: Yes. I don't think it is necessarily correct that we make a statement that we do not distinguish between citizenship in the Constitution. It is very clear that in some perceptions we say that only citizens can vote.

Now, if in fact we are accepting that idea, that abolishment or repeal or alteration -- I mean, abolishment, reform or alteration of this government is going to be accomplished by the means that have been enumerated by the speakers who spoke before me, then -- are you going to listen? -- if we are to accept the rationale and the arguments that were presented by those who spoke before on this question, then we understand that you will be able to vote and abolish this form of government.

You will be able to vote and alter that form of

government. You will be able to vote and reform that form of government.

Now, the problem I have here is, we say clearly in suffrage, only those who are citizens can vote. Now we are going to say that if the intent is to reform, abolish, or alter the government, that anybody then can participate in the voting process.

I am saying there is a contradiction here that needs to be clarified. So this language only makes it consistent with what we had stated earlier in our Constitution and that is, the right of those who are citizens to vote and then we break it down at this point, the right of those who are citizens to alter, reform or abolish that form of government.

Now, my question is, how then does the maker of this motion anticipate that people who are not citizens --

VICE PRESIDENT HARRIS: Your time is up, Delegate Jordan.

DELEGATE JORDAN: -- people who are not citizens participate in this process to alter, reform or abolish? How would they --

VICE PRESIDENT HARRIS: Thank you, Delegate Jordan. May I remind you we must move along. Delegate Freeman.

DELEGATE FREEMAN: I want to piggy-back on the

remarks made by Delegate Jackson and just add a few reminders to the Delegates that we in this country were not citizens when we fought -- or some of our ancestors fought, I should say, in the Revolutionary War -- we were not citizens of the United States -- but all of our ancestors fought.

Many people who were not citizens of this country fought in the Civil War to change the most reprehensible institution on the face of the earth. We ourselves are not citizens of the state right now but we are seeking to become a state. That is a process of change. But we are not citizens of the state right now.

I believe, and I think we all have to believe, that the right of the people who inhabit an area in this country to change our form of government is basic and profound. It is the most basic right of all. If we included nothing else in this Constitution, we would have to include the right of the people to change our form of government. Thank you.

VICE PRESIDENT HARRIS: I saw Delegate Cassell's hand up and I had his name down. I omitted it. So you may speak.

DELEGATE CASSELL: Do we have the primary motion on the floor right now?

VICE PRESIDENT HARRIS: Well, secondary.

DELEGATE CASSELL: Let me ask a necessary question

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then. I don't want to delay things but this is by way of clarification. Delegate Warren's amendment on line 17 says, "Whenever Government becomes destructive of these ends" and a question was raised as to what "these ends" were and the response was, the end that the government belongs to the people.

I am just not certain that that is clear. Someone indicated that perhaps it should say"Whenever the state with its institutions exists to serve the interests of the people."

Now, understandably, neither one of those is very specific but "To serve the interests of the people" is an end that is more easily understood and defined than "belonging to the people."

Is there a way to ask the maker of the secondary motion if he or she -- and I forgot who it was -- would accept that as if it is considered to be more clarifying as an amendment or a refinement of his or her amendments.

VICE PRESIDENT HARRIS: Delegate Warren.

DELEGATE WARREN: For clarity, I would like to say at this time, change line 17.

VICE PRESIDENT HARRIS: What would you like it to say?

DELEGATE WARREN: To say, "Whenever the government fails to serve its people" and it goes on to line 18, which

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will not be changed, "They may exercise their inalienable right to alter" and so on.

VICE PRESIDENT HARRIS: All right, so you are suggesting that the delete becomes "destructive to that end" and in its place, insert "fails to serve its people" and the sentence would read, "Whenever a government fails to serve its people, they may exercise " any other rights, et cetera, et cetera.

DELEGATE SHELTON: Would you please repeat the entire thing?

VICE PRESIDENT HARRIS: Okay, the entire substitute would read, from the beginning, "This state, with its institutions [sic], belongs to the people who inhabited it. Whenever a government fails to serve its people, they may exercise --" and it reads as stated in the document -- "their inalienable rights to alter, reform or abolish it."

Does that, in fact, clarify it?

Now, we should not have to spend -- let me indicate to you that it is a few minutes after 3:00 and we should be proceeding with second reading, so if it is nothing new you want to add to this, I would like to entertain a motion to call the question.

DELEGATE JERRY MOORE: Madam Chair, I call the

previous question, please.

[Previous question called and seconded.]

VICE PRESIDENT HARRIS: All right, it has been moved and seconded that we close off debate. All in favor. All opposed. [Motion passes.]

We have before us the Freeman Amendment, which is to substitute in the Warren Amendment "people" for "citizens."

All in favor of using the word "people" instead of "citizens," please say "aye."

[There is a chorus of ayes.]

All opposed.

[Smaller chorus of "no."] [Motion passes.]

So carried. We go back to the Warren substitute and I daresay we have not discussed this fully.

A DELEGATE: I call the question. [There is a second.]

VICE PRESIDENT HARRIS: And the question has been called and seconded that we go to the Warren substitute which now we use the word "people" instead of "citizens."

All in favor of the Warren substitute, please say aye.

[There is a chorus of ayes.]

All opposed.

[There is one no.] [Motion carries.]

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VICE PRESIDENT HARRIS: So carried.

Delegate Moore.

DELEGATE JERRY MOORE: Thank you. Madam Chair, I move section 22 as amended.

DELEGATE KAMENY: Second.

[Motion made and seconded.]

VICE PRESIDENT HARRIS: It has been moved and properly seconded that Section 22 be adopted. All in favor -- as amended -- all in favor.

[There is a chorus of ayes.]

All opposed.

[No opposition, passed unanimously.]

VICE PRESIDENT HARRIS: Section 22 is adopted.

Delegate Moore.

DELEGATE JERRY MOORE: Madam Chair, I move Section 23, self-execution.

DELEGATE KAMENY: Second.

[Motion made and seconded.]

VICE PRESIDENT HARRIS: Section 23 has been properly moved and seconded. Discussion. Delegate Robinson.

DELEGATE ROBINSON: I call the previous question.

DELEGATE MARCUS: Second.

[Previous question called and seconded.]

VICE PRESIDENT HARRIS: The previous question has been properly moved and seconded. All in favor of cutting off debate, let it be known by saying aye.

[Motion passes by voice vote.]

VICE PRESIDENT HARRIS: All in favor of section 23, let it be known by saying aye.

[Passes unanimously by voice vote.]

VICE PRESIDENT HARRIS: So carried. So adopted.

Now, we have to go back, ladies and gentlemen, to Section 7, Grand Jury and then we will entertain any other amendments before us.

Is that what you had in mind, Delegate Cassell?

DELEGATE CASSELL: Well, let me get a ruling, here. We passed section 20 and I spoke in behalf of it.

VICE PRESIDENT HARRIS: Section what?

DELEGATE CASSELL: Section 20.

VICE PRESIDENT HARRIS: Twenty?

DELEGATE CASSELL: Yes.

VICE PRESIDENT HARRIS: We have adopted section 20.

DELEGATE CASSELL: I am just saying that we adopted that and I spoke in behalf of it. We adopted a procedure last night. I think that it is a serious flaw. While I support it, it does not limit that support to the citizens of the state.

Delegate Long made that reference but he offered no amendment. I had an opportunity to offer an amendment and I did not, either.

Last night we found ourselves in a similar situation and by consent of the body, we allowed Delegate Clarke to make a perfecting amendment.

At the appropriate time, I would like to ask for the opportunity to do that in connection with Section 20, to limit the provision of benefits to the citizens of the state. And you know, those benefits, of course, are the right to employment or the right to some compensation if a person cannot be employed.

I would like to offer that when Madam Chair feels that it is appropriate and --

VICE PRESIDENT HARRIS: I am not sure that is before us, Delegate Cassell.

DELEGATE CASSELL: Well, the --

VICE PRESIDENT HARRIS: Let me check with the Parliamentarian here.

DELEGATE CASSELL: -- the precedent was set last night, so --

VICE PRESIDENT BALDWIN: [Acting as Parliamentarian] That would only be in order at the second reading if the chairman of this committee accepts that -- waives that. If not,

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Delegate Cassell, then it would be what is called "A motion to reconsider previous actions." So you could check with the Chairman, Delegate Jerry Moore and ask if he would waive, you know, a second reading, to allow you to make an amendment.

DELEGATE CASSELL: Very well.

[Side conversations.]

VICE PRESIDENT BALDWIN: We are going to follow our rules so we can move on. The only thing in order now is the section on 7 and other than that, once that is completed, we will continue to complete articles.

DELEGATE SHELTON: Point of information --

VICE PRESIDENT HARRIS: Okay, the Parliamentarian has ruled so we will now go on to section 7 which Delegate Moore is going to put before us and we can entertain that concern --

DELEGATE SHELTON: -- point of information -- are we going to consider it at the end of section 7 or when?

VICE PRESIDENT HARRIS: At the end of section 7 or after any amendments, any new proposed sections for this article.

DELEGATE SHELTON: But what about what we decided to do yesterday?

VICE PRESIDENT BALDWIN: Delegate Shelton, we have made a ruling. The only think in order after we finish

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debating on section 7 is for those delegates who have moved sections -- and we have one from Delegate Jordan which he has defined as article 24 -- if there are other new sections, then they would be in order but there is no room left now for further amendments to this document. This would just go on and on and on.

DELEGATE SHELTON: [Inaudible.]

VICE PRESIDENT HARRIS: Okay, we will consider that. Delegate Jerry Moore.

DELEGATE MOORE: Madam Chair, Section 7. Section 7 has been revised --

VICE PRESIDENT HARRIS: We cannot hear. It had become a little bit noisy --[rapping gavel] -- Delegate Long, Mason, Jones, we can't hear, we are sorry. Please --

DELEGATE JERRY MOORE: Section 7 has been revised in its writing and, Madam Chair, I would like permission for Delegate Marcus to read the revised version of Section 7 to be considered by the Convention.

VICE PRESIDENT HARRIS: Each person here should have a copy of 7. It was put in your boxes. It was put in your boxes, yes.

DELEGATE MARCUS: I will read section 7 because there is one piece of perfecting language that was added to it.

Section 7, entitled "grand jury" subsection A.

"All persons have the right to be free from unwarranted or arbitrary prosecution. The grand jury shall not engage in fishing expeditions --- investigations, which have little or no basis in fact. Grand jury indictments are required for all authorized prison sentences of one year or more.

"Grand jurors shall be drawn from a cross-section of the community. All grand jury witnesses shall have the right to assistance and presence of counsel, be informed of the privilege against self-incrimination and advised if they are or may become targets of prosecution."

"Criminal defendants are entitled at all times to grand jury transcripts."

Subsection B.

"The grand jury shall appoint and the state shall pay non-government counsel for independent advice. Indictments shall be used only -- indictments shall be issued only on probable cause and shall, upon motions, be dismissed for violations of this section."

Subsection C.

"The legislature shall determine the manner of grand jury selection and operation."

I would move that section.

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[Motion made and seconded.]

VICE PRESIDENT HARRIS: Okay, it has been moved and properly seconded that we adopt Section 7 as it has been revised, grand jury. Now, let's open up for discussion.

VOICE: I would like an explanation of it.

VICE PRESIDENT HARRIS: I don't know if we need an explanation right at this point. Why don't we open it up for the body to discuss right now? Delegate Jordan and Delegate Bruning.

DELEGATE JORDAN: I just want to ask a question of the committee.

DELEGATE MARCUS: Yes, sir.

DELEGATE JORDAN: I have brought this up before but I don't know how to resolve it so I am raising the question again. Presently, as it exists right now -- and I am reading from a copy of the modified plan for the United States District Court for the District of Columbia for the planned selection of grand and petit jurors. And it was amended March 22nd, 1978. And the first sentence reads:

"Jurors shall be selected by a jury commission consisting of three commissioners appointed by the United States District Court for the District of Columbia."

Now, the point I am making is that as it presently

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exists, the jury system in the District of Columbia is run completely by the Federal Government.

This section only takes the grand jury from under the control and jurisdiction of the Federal Government. It does nothing to petit jury.

Now, in no other article in this Constitution have we addressed the issue of petit juries nor have we addressed the issue in any transition article because it is purely now a federal function so I just want to know if an amendment is in order to --

[Brief side conversation -- it is not simple]

-- I just ask the committee what is its advice on this particular dilemma that we find ourselves in?

DELEGATE MARCUS: Okay. As I understand it, once we establish the state and in fact, the right to a petit jury or a trial by a petit jury is established, nothing is run by the Federal Government. In fact, it is up to the legislature to make the determination about how that process takes place.

DELEGATE JORDAN: But I am saying the transition period, then, we are going to permit the present system to continue. But why can't we abolish it now? Why can't we set up now for a selection process for petit jurors? Because I don't want the Federal Government -- like I was opposed to having the

U. S. Attorney continue to prosecute cases until our Attorney General can take over and now we are saying that we are going to allow the Federal Government and I don't want to encumber this section and I don't want to try to endanger it but I am just saying, we will continue to allow the Federal Government to select jurors .

That process is fraught with corruption. It -- it is --

VOICE: Insensitive.

DELEGATE JORDAN: Yes, it is insensitive. I am 41 years old. I have never been called for jury selection in my life. And if you will look at the system that they are supposed to use for selecting jurors, it is very biased in favor of a certain economic group but it says here that there is a process that they draw the name from two lists and I am on both of those lists and you are supposed to exhaust a list before you ever call anybody.

DELEGATE MARCUS: Delegate Jordan, we are all in sympathy with that particular position and understand the problem. Grand juries -- this particular section deals with indictment, not with trial by jury.

In fact, you may well have a point. Therefore, you have two -- you essentially have two alternatives, as I see it.

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First of all, the first alternative is that during the second reading regarding trial by jury, the section of the Bill of Rights regarding trial by jury, you can raise that particular amendment.

The second alternative that you have is that at the end of the consideration of the Bill of Rights, you can submit your own section which deals with the selection of juries during the transition period.

And a third alternative occurred to me just now as well. You can probably also, during the second reading on the article on transition, include language which relates to that.

VICE PRESIDENT HARRIS: Okay, before we go any farther, our President would like to make a point of personal privilege and would you please listen.

PRESIDENT CASSELL: Delegates, please excuse me for interrupting the debate at this point. We are committed to be here all day today. We may very well have to be on the floor all day Friday.

I have asked Mr. Dwight Crop to ask the Mayor if he would exempt from work on today and on Friday -- inasmuch as tomorrow we are in recess -- all D.C. employees -- inasmuch as you are going to be here, anyway -- I sent a letter to him.

I did that last night, knowing that we would be

here all day today and possibly all day Friday.

I did not have a record of who works for the D.C. Government. I just took the names based on the telephone number, 727 and 724 numbers. Let me read the names of the D.C. employees for which I have asked for administrative leave for today and Friday and if anybody works for the D.C. Government and your name is not called, let me know. If you know of anybody who is in the government, his or her name, please let me know.

I have Richard Bruning -- and if anybody should not be on here, let me know, too. Janice Eichhorn, Joel Garner, Teresa Jones, Chestie Graham, Absolom Jordan, Wesley Long, Norman Nixon, Samuel Robinson, Anita Shelton and Geraldine Warren.

All right, now is there anybody whose name should be on there or should not be?

[Side conversations.]

All right, now, we have already asked the superintendent of the schools to release all persons who work for the school system so that that is a separate group and there are five such people and the superintendents have that request. Okay. Yes, Delegate Jones?

DELEGATE JONES: Mr. President, I ask you to remove

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my name from the list. I work for private industry and not for the District Government.

PRESIDENT CASSELL: All right.

DELEGATE SHELTON: Please take my name off, too.

PRESIDENT CASSELL: Anita Shelton and Delegate Jones.

Is there anybody else who does not wish to have administrative leave requested for him or her?

Delegate Jordan.

DELEGATE JORDAN: I understand Joel Garner works for the Federal Government, not the District Government. He works for the Department of Justice.

PRESIDENT CASSELL: So these numbers are not necessarily for the District of Columbia then, huh? Yes?

DELEGATE BRUNING: I very much appreciate your effort but I think it would be very much better if my name were removed.

PRESIDENT CASSELL: All right, Bruning is taken off. Anyone else? Delegate Long.

DELEGATE LONG: Strike my name.

PRESIDENT CASSELL: All right. Chestie Graham should not be on here, either, because she has already been asked for. Okay, Absalom Jordan, Norman Nixon, Samuel Robinson, and Geraldine Warren. All right. Have I left out anybody?

Delegate Thomas?

DELEGATE THOMAS: [Inaudible.]

PRESIDENT CASSELL: We have no influence over there. We are pretty sure that the Mayor will honor this. We don't have anybody in the Federal Government, nor do I think there is time.

[Side conversation.]

Yes, one of the things that Delegate Freeman has pointed out is that there may be the possibility that you cannot get your per diem if you are on administrative leave.

Now, we never did resolve that issue so you might consider that if you want to be classified as being on administrative leave. I am sorry we do not have an answer for you.

But as of this moment, those names that I read and that were not crossed off are the ones that we are asking for administrative leave for.

This letter has already gone forth. We will simply ask that these names be struck from it. Thank you very kindly.

VICE PRESIDENT HARRIS: Okay. We shall return to the discussion on Section 7, Grand Jury. Delegate Marcus, please continue. [Rapping for order.] Delegate Bruning.

DELEGATE BRUNING: I am in agreement with the language on grand jury with the exception, I think, of line four, the

first two words, "fishing expeditions." It is merely a matter of the dramatics thereof. I certainly understand the intent of it and I hope the committee can give me language that -- "fishing" is a colloquialism and I don't think it quite fits in.

DELEGATE MARCUS: Okay, let me say first that "fishing expeditions" is, in fact, in case law so it is accepted language. It has been used by the Supreme Court, in fact.

DELEGATE BRUNING: Okay, objection withdrawn.

DELEGATE MARCUS: In fact -- the reason --

VICE PRESIDENT HARRIS: Okay, he says "objection withdrawn." Let's stop. Delegate Oulahan, be brief.

DELEGATE OULAHAN: [Inaudible.]

VICE PRESIDENT HARRIS: [Rapping gavel.] Please, Delegates, give others your attention.

DELEGATE OULAHAN: Madam Chair, I would like to ask the committee whether or not the following are the changes --

VICE PRESIDENT HARRIS: We have two little groups here I wish would dissolve by themselves.

DELEGATE MARCUS: We can't hear you. In which sentence?

DELEGATE OULAHAN: Madam Chair, I am asking three questions of the committee in order to assist my fellow delegates as to the meaning of section 7.

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In lines 7 and 8, is it not true that the provision, "All grand jury witnesses shall have the right to assistance and presence of counsel" is a departure from the present grand jury system?

VICE PRESIDENT HARRIS: Would someone from the committee want to address that?

DELEGATE MARCUS: All right. Delegate Oulahan, the change is this. At this moment, all grand jury witnesses do in fact have the right to assistance by counsel. They may not be in the grand jury room. They must sit by the door of the grand jury room.

DELEGATE OULAHAN: And under this section, counsel may be present in the grand jury room.

Now, my question is, during the testimony of their client or at all times?

VICE PRESIDENT HARRIS: [Rapping for order.]

DELEGATE MARCUS: During testimony of the client.

DELEGATE OULAHAN: My second question. In lines 10 and 11,"Criminal defendants are entitled at all times to grand jury transcripts." Is this not a change from the present procedure?

DELEGATE MARCUS: Yes. The answer is yes. At the moment, grand jury transcripts are available as Jenks material

during the testimony of -- after the testimony of witnesses at trial.

DELEGATE OULAHAN: And does not this section -- does this section permit the furnishing of grand jury transcripts of all witnesses who may have appeared against a defendant before trial?

DELEGATE MARCUS: Yes.

DELEGATE OULAHAN: That would include, would it not, the names of persons who ordinarily would remain as unknown informants, unidentified informants?

[Committee consultation. Pause.]

VICE PRESIDENT HARRIS: Can you answer that question?

DELEGATE MARCUS: Yes, I can. Let me check one more time with the committee members to make sure what the answer is.

VICE PRESIDENT HARRIS: And I would like for our general counsel to come up and have something to say about these questions -- for our clarity.

MR. THOMAS: I would prefer for the committee to complete its answer first.

VICE PRESIDENT HARRIS: But they are not ready to answer.

DELEGATE MARCUS: Yes, we are ready to answer. We are ready to answer.

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VICE PRESIDENT HARRIS: Okay.

DELEGATE MARCUS: If the person is an informant, the name would not necessarily be revealed at the time of trial, nor would the name necessarily have to be revealed as a result of being witnesses. It is the substance of the information in the transcript that would, in fact, be revealed.

DELEGATE OULAHAN: I beg to differ. You say "Grand jury transcripts." That means verbatim transcripts, doesn't it? And when you have a verbatim transcript you have the name of the witness in it.

DELEGATE MARCUS: [After further consultation with committee] As I understand it , the answer to that is yes. We would agree to have that somehow qualified so that that does not necessarily have to be the case. We will not agree, however, that transcripts of the testimony of witnesses to the grand jury not be made available.

VICE PRESIDENT HARRIS: Okay. Delegate Oulahan, please, I beg you that this be your last and brief comment.

DELEGATE OULAHAN: I will make a statement --

VICE PRESIDENT HARRIS: Delegate Jones, you are next.

DELEGATE OULAHAN: The grand jury shall appoint and the state shall pay non-government counsel for independent

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advice. It is my understanding this is a novel departure from present practice.

DELEGATE MARCUS: It is directly -- almost directly, almost verbatim from the Hawaii Constitution.

VICE PRESIDENT HARRIS: Okay, thank you. That was a very good answer. Delegate Jones.

DELEGATE JONES: Thank you, Madam Chairman. I have some questions about the criminal defendants. The criminal defendants are entitled at all times to grand jury transcripts and it seems to me since we have had so many murders in this city of people who have been involved in criminal activity who have to answer the grand jury. It is my understanding that when the grand jury calls you, you must answer the questions.

Now, Mr. Marcus is not listening to me so I don't see how he is going to answer me, Madam Chairman.

DELEGATE MARCUS: I am listening to you.

DELEGATE JONES: No, you are listening to something dumb.

Okay, we have had so many murders in this city by people, you know, who have been involved in criminal activity and must answer to grand jury and who have later paid for it with their lives and it was my understanding from reading what the grand jury is about now and from listening to our general

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counsel to explain what the gran jury's role is now, would that -- would this add to the kind of murders that we have had in this city? And these kind of murders have happened in my area more so than in yours.

Oh, and let me ask my whole question. And the other thing, what protection is made for citizens like me who have to answer the grand jury because I saw something -- what protection do we have against somebody coming to murder me since we have no right to protection, not yet, in this Constitution?

I am talking about Mr. Jordan's proposal.

DELEGATE MARCUS: In answer to Delegate Jones' questions, taking them one at a time -- unfortunately, I don't know how to predict a murder rate in this particular city. I don't know of any way to predict the relationship between grand jury testimony and violent crime. I don't know that there is anybody in this room that knows how to do that.

The second answer that I can give to Delegate Jones --

VICE PRESIDENT HARRIS: [Rapping for order].

DELEGATE MARCUS: -- is that we are not changing the fact that transcript material is, in fact, available to defendants, the criminal defendants, in preparation of their defense. What we are changing is the time at which they receive that particular transcript.

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The criminal defendant would still be able to see the transcript of testimony in the grand jury.

And to answer the third question, in regard to protection for witnesses to the grand jury, as I recall, Delegate Jordan offered and this body adopted an amendment to the section on sovereign immunity which allows the police and agents of the police to be sued if they do not provide protection to individual citizens.

That is the protection which is available to everyone in the District of Columbia. There is no current special protection given to grand jury witnesses unless they request it and they can demonstrate that their lives are somehow in danger.

I am sorry that it is not linked in this particular section. What this section deals with is indictments.

DELEGATE JONES: Since you don't have it in this section, I --

VICE PRESIDENT HARRIS: Please be brief.

DELEGATE JONES: I am.

Since you don't have it in the District of Columbia and since protection in the District of Columbia as recently handed down by the courts that Delegate Jordan spoke to, said that the police -- that I have no right to police protection,

not unless it is for the good of the whole. In my neighborhood, it is for the good of the whole. It is for the convenience of the police.

So therefore, when you get to this and you allow this, this means that you, who could not answer the question about the murder rate here in the city, okay, you just fudged that.

DELEGATE MARCUS: No, I --

DELEGATE JONES: You just fudged that. It means -- to me, this means, not unless you have some other kind of documentation, that to me, if I as a law-abiding citizen gets called before the grand jury, then my life is threatened, my property is threatened, my family is threatened and anything else is threatened because there is no protection for me.

Is that what you were saying in here?

DELEGATE MARCUS: That is not what I am saying.

DELEGATE JONES: My right is violated in here. I urge the delegation to vote this down.

DELEGATE MARCUS: And may I answer the Delegate's question?

VICE PRESIDENT HARRIS: Yes, you may answer it.

DELEGATE MARCUS: Delegate Jones, I am not saying anything in regard to threats to your particular life. The

section on indictment deals with the process by which one is indicted for a crime. It does not deal specifically with the protection of the individual. We have dealt with that, with individuals who may be witnesses from the criminal element.

We have, in fact, dealt with that under the section on sovereign immunity.

VICE PRESIDENT HARRIS: Okay, we have entertained several points of discussion on grand jury. Is the general counsel at this time ready to give his opinion?

MR. THOMAS: I don't think I could add anything that has not been said already other than if there is a specific question that someone has. You can call on Mr. Bruning.

VICE PRESIDENT HARRIS: Mr. Bruning.

DELEGATE BRUNING: I just wanted to be sure the current practice is now before trial. Defendants receive grand jury transcripts. Is that correct?

MR. THOMAS: No, the current practice is, after the witness finishes direct examination, the government is then required to give the grand jury transcript to the defendant so that he may review it and check for --

DELEGATE BRUNING: At the actual trial?

MR. THOMAS: Yes, at the actual trial, right after the testimony.

DELEGATE BRUNING: That late.

MR. THOMAS: Right. And this amendment seeks to --

VICE PRESIDENT HARRIS: Okay. Now, --

MR. THOMAS: Although "timely fashion" is not defined, I presume it seeks to give them a longer period of time to review the testimony.

VICE PRESIDENT HARRIS: -- Delegate, do you want to move the question?

MR. THOMAS: Can I state an opinion at this time?

[The question is called.]

VICE PRESIDENT HARRIS: The previous question has been called but you may continue with your opinion.

MR. THOMAS: I am concerned with the phrase that "transcripts will be available at all times." Sometimes the grand jury may still be convening and that may produce an unwanted result. Mr. Marcus has already said that he and the committee will consent to "in a timely fashion," which would be defined by either the legislature or the court.

DELEGATE MARCUS: That is right.

VICE PRESIDENT HARRIS: Okay, may I --

MR. THOMAS: I see nothing legally wrong with that.

DELEGATE KAMENY: I call the question.

[Question called. There is a second.]

VICE PRESIDENT HARRIS: May I caution you that it is 20 minutes of 4:00? We need to complete section 7. We have two amendments and we need to vote on the name of the state and we need to do that very quickly before we go. These sheets have been passed out to you so we need to do that and we need to stay in here and do that and move right along to our second reading.

So please, the question has been moved and seconded on section 7. All in favor of cutting off debate, let it be known by saying aye.

[In a voice vote, debate is cut off.]

VICE PRESIDENT HARRIS: Before us, is section 7, grand jury. All in favor of section 7, please say aye.

[In a voice vote, section 7 is adopted.]

VICE PRESIDENT HARRIS: So adopted.

We have before us --

DELEGATE MARCUS: Can I just be clear on that? The committee accepted in a timely fashion. Was that included?

SEVERAL VOICES: Yes.

VICE PRESIDENT HARRIS: Okay, we are now -- before us is -- oh, Lord -- two amendments, the Shelton amendment was a new section which is proposing to be section 24 [side conference.]

The proposal is section 24, the Shelton amendment which reads -- and if I might expedite things and read it -- Title Equal Pay.

"All employees shall be guaranteed equal pay for work of comparable work." It has been moved and properly seconded --

DELEGATE: [Inaudible.]

VICE PRESIDENT HARRIS: Well, if it is there, do you want to tell us where it is?

Okay, it has been moved and properly seconded that we have a new section, Equal Pay, and it reads:

"All employees shall be guaranteed equal pay for work of comparable work." Discussion, please.

Point of order.

DELEGATE JACKSON: Point of information -- point of order, Madam Chair.

VICE PRESIDENT HARRIS: Point of order.

DELEGATE JACKSON: I am not speaking exactly to it. However, I don't know what the exact language is in, in economic development, whether it should be in there or not but I would hope that it would be adopted, whatever [method will accomplish that] the two committee chairs could meet and maybe work out whichever is better and not just leave it to the

discretion of Style and Drafting.

VICE PRESIDENT HARRIS: I agree.

Delegate Long.

DELEGATE LONG: According to my records, section 2 in the Labor Relations on Economic Development says the "Legislation shall provide for minimum wages, equal pay for equal work and equal pay for comparable work."

[Discussion in many side conversations.]

VICE PRESIDENT HARRIS: She says she wants it to be a right which states, "Shall be guaranteed." I think that might be the difference there. Am I right?

Yes, there is a difference. Is there other discussion. Will you move the question?

DELEGATE JACKSON: I would like to move to amend the statement to say what Delegate Long said or at least "equal pay for equal work," if Madam Chair will accept that. It follows the language of Economic Development. "Equal pay for equal work and equal pay for comparable work." Shouldn't that be the way it should read?

DELEGATE LONG: As far as I can tell, from my records.

VICE PRESIDENT HARRIS: Okay, is there a second on that amendment?

DELEGATE KAMENY: We can't second it until we hear from the original maker of the motion.

VICE PRESIDENT HARRIS: Just as a point of clarity, does the maker of that motion have any problem with it?

With that amendment? Just to speed things up.

DELEGATE SHELTON: [Inaudible.]

VICE PRESIDENT HARRIS: Huh ?

DELEGATE SHELTON: That's fine.

VICE PRESIDENT HARRIS: Okay. May I entertain -- yes, would you like to speak?

DELEGATE SHELTON: Well, the spirit that I am trying to get to is that there are certain classifications of jobs which are not considered to be comparable and in this ideal state there will be the possibility at some future point that that work will be evaluated on the basis of its service to society rather than on the basis of the people who occupy the job.

VICE PRESIDENT HARRIS: Okay, we have had an amendment to the proposed section. May I have a motion to move the previous question if there is no other discussion on it?

DELEGATE KAMENY: I call the previous question.

[Previous question called and seconded.]

VICE PRESIDENT HARRIS: It has been moved and properly